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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,906	12/28/2001	Nicholas Paul Kelly	01.103.01	2851
7590	06/05/2006		EXAMINER	
Zilka-Kotab, PC P.O. Box 721120 San Jose, CA 95172-1120			LAFORGIA, CHRISTIAN A	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Application Number 	Application/Control No. 10/028,906	Applicant(s)/Patent under Reexamination KELLY ET AL. Art Unit Emmanuel L. Moise
		2137
Document Code - AP.PRE.DEC		

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed March 22, 2006.

1. **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- The request does not include reasons why a review is appropriate.
- A proposed amendment is included with the Pre-Appeal Brief request.
- Other: _____

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-39.

Claim(s) withdrawn from consideration: _____.

3. **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Emmanuel L. Moise.

(3) Christian Laforgia.

(2) Lynne Browne.

(4) _____.



MAR 22 2006

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) NAI1P484/01.103.01
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>March 20, 2006</u> Signature	Application Number 10/028,906	Filed 12/28/2001
Typed or printed name <u>Erica L. Farlow</u>	First Named Inventor N. Kelly et al.	
	Art Unit 2131	Examiner Laforgia, C.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.		
This request is being filed with a notice of appeal.		
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. Signature Kevin J. Zilka Typed or printed name Telephone number 41,429 Date 3/20/06		
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. <u>41,429</u> Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.		
<input type="checkbox"/> *Total of _____ forms are submitted.		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.